

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN JOE MCKENNEY**, on January 28, 2003 at 8:00 A.M., in Room 172 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Joe McKenney, Chairman (R)  
Rep. Jim Keane, Vice Chairman (D)  
Rep. Donald Steinbeisser, Vice Chairman (R)  
Rep. Bob Bergren (D)  
Rep. Rod Bitney (R)  
Rep. Sylvia Bookout-Reinicke (R)  
Rep. Nancy Fritz (D)  
Rep. Dave Gallik (D)  
Rep. Kathleen Galvin-Halcro (D)  
Rep. Ray Hawk (R)  
Rep. Bob Lawson (R)  
Rep. Rick Maedje (R)  
Rep. Gary Matthews (D)  
Rep. Scott Mendenhall (R)  
Rep. Penny Morgan (R)  
Rep. Allen Rome (R)  
Rep. Sandy Weiss (D)  
Rep. Bill Wilson (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Branch  
Alberta Strachan, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB403, 1/23/03; HB387, 1/23/03;  
Executive Action: HB363; HB342; HB343

**HEARING ON HB 403**

**Sponsor:** REP. JIM KEANE, HD 36, Butte

**Opening Statement by Sponsor:**

**REP. KEANE** said this bill was an act requiring a contractor, subcontractor, or employer to ensure that at least 50 percent of workers performing labor on a state construction project are bona fide Montana residents.

***{Tape: 1; Side: A; Approx. Time Counter: 22 - 38}***

**Proponents' Testimony:**

**Jerry Driscoll, Montana State AFL-CIO**, said this bill was existing rule. If a company has a state-funded job, 50% of the people working on the job, at any given time, must be Montana residents, if possible. If this 50% employee count cannot be met, the employer must contact the Commissioner of Labor and indicate they cannot find a contractor or employee who doesn't know how to do that type of work.

***{Tape: 1; Side: A; Approx. Time Counter: 38 - 61}***

**Bob Pavlovich, International Brotherhood of Electrical Workers**, said he concurred with the sponsor's summation of the bill. There is a great work force in the State of Montana and they would like to keep that work force working here and not being shipped out of the state.

***{Tape: 1; Side: A; Approx. Time Counter: 61 - 67}***

**Carl Schweitzer, Sheet Metal & Air Conditioning Contractors of Montana**, said the organization he represents are businesses who own construction companies that primarily do heating and air conditioning work. There are also a number of electrical contractors who are very supportive of this bill. People are comfortable with the law as it exists and they were also comfortable with the legislation proposed by the Department of Labor.

***{Tape: 1; Side: A; Approx. Time Counter: 67 - 76}***

**Opponents' Testimony:**

**Dennis Iverson, Montana Contractors Association**, said the problem they have with this legislation is in the definition. The bill now states that in order to be called a resident, a person cannot have come to the state just for this job. From the prospective of the contractors, it is going to be difficult to really make that determination. They would prefer a definition in the bill to make the contractor bona fide. There is an escape clause to

cover those situations if a contractor could not be found in Montana to do some particular kind of work.

**{Tape: 1; Side: A; Approx. Time Counter: 76 - 104}**

**Informational Testimony:**

**John Andrew, Department of Labor & Industry**, said he was here to provide informational testimony.

**{Tape: 1; Side: A; Approx. Time Counter: 104 - 108}**

**Questions from Committee Members and Responses:**

**REP. BITNEY** asked Mr. Driscoll for examples of construction. **Mr. Driscoll** said it consisted of construction that is paid for by state dollars or federally-funded jobs.

**{Tape: 1; Side: A; Approx. Time Counter: 112 - 160}**

**REP. MENDENHALL** asked Mr. Driscoll if, as an example, there was an economic development project in Jefferson County, a package of which financing included \$975,000 of federal money and \$25,000 of the micro business loan program, would that ever be granted. **Mr. Driscoll** said it would not because it was federal money.

**{Tape: 1; Side: A; Approx. Time Counter: 143 - 160}**

**REP. MAEDJE** asked Mr. Driscoll if state land board projects would qualify. **Mr. Driscoll** said it would not apply.

**{Tape: 1; Side: A; Approx. Time Counter: 160 - 165}**

**REP. BERGREN** asked Mr. Andrew if he could give the committee a history of how these reviews have developed. **Mr. Andrew** said they would review any project and, what monies were left were given back to the contractors if 50% of the laborers were Montana residents.

**{Tape: 1; Side: A; Approx. Time Counter: 165 - 181}**

**CHAIRMAN MCKENNEY** asked Mr. Driscoll since this was a rule-making issue which seems to be working well, why they need to have this bill and put it in law. **Mr. Driscoll** said during the interim they attempted to change the bill to 50% of the hours worked.

**{Tape: 1; Side: A; Approx. Time Counter: 181 - 211}**

**Closing by Sponsor:**

The sponsor closed.

**{Tape: 1; Side: A; Approx. Time Counter: 211 - 231}**

EXECUTIVE ACTION ON HB 363

*{Tape: 1; Side: A; Approx. Time Counter: 250 - 500}*

Motion: REP. MENDENHALL moved HB 363 DO PASS.

Motion: REP. GALLIK moved HB 363 AMENDMENTS.

Discussion:

Mr. Campbell explained the amendments.

REPS. MATTHEWS, MENDENHALL, KEANE and CHAIRMAN MCKENNEY opposed the amendments.

Vote: A roll call vote was taken. Motion failed 1-17 with REP. GALLIK voting yes.

Vote: Motion passed 11-7 with REPS. FRITZ, HAWK, LAWSON, WILSON, GALVIN-HALCRO, WEISS, and GALLIK voting no.

EXECUTIVE ACTION ON HB 342

*{Tape: 1; Side: B; Approx. Time Counter: 10 - 176}*

Motion: REP. GALLIK moved DO PASS.

Discussion:

REPS. MAEDJE, GALLIK, STEINBEISSER, MENDENHALL, BOOKOUT-REINICKE and CHAIRMAN MCKENNEY said they oppose the bill.

Vote: Motion failed 4-14 with REPS. KEANE, BERGREN, GALLIK, and WEISS voting yes by roll call vote. Reversal of the vote to TABLE passed 14-4 with REPS. KEANE, BERGREN, GALLIK, and WEISS voting no.

HEARING ON HB 387

*{Tape: 1; Side: B; Approx. Time Counter: 177 - 300}*

Sponsor: REP. PENNY MORGAN, HD 21, Billings

**Opening Statement by Sponsor:**

**REP. MORGAN** said this bill was an act providing that an incorporated city or town may not require the owner of a temporary structure or the owner of the real property on which the temporary structure is located to post in advance of the temporary structure's removal any cash, money order, cashier's check, or bond to cover any costs that the incorporated city or town may incur if the owner of the temporary structure or the owner of the real property on which the temporary structure is located fails to remove the temporary structure in a timely fashion.

**{Tape: 1; Side: B; Approx. Time Counter: 212 - 305}**

**Proponents' Testimony:**

**Cliff Christian, representing himself**, explained the circumstances of his building a coffee shop on his land and the problems he had with the construction and its removal.

**{Tape: 1; Side: B; Approx. Time Counter: 306 - 384}**

**Opponents' Testimony:**

**Jami McCall, City of Billings**, said this is a bill that should not be before the Legislature. It is strictly a local control issue. This should be brought before the City Council and to the City staff in Billings. The City does either require a \$50 bond or a \$1500 cashier's check. In terms of setting up the rules or process, the City held a conference with business owners who owned these temporary units and put together the set regulations that were eventually passed by the City Council. There has been inconsistency in the fees that have been used in the past and the City has recently hired a commercial code enforcer.

**{Tape: 1; Side: B; Approx. Time Counter: 384 - 427}**

**Alec Hanson, Montana League of Cities and Towns**, said they oppose this bill. This is a local issue. This is something that needs to be worked out by the bill's sponsor and the City of Billings. There is no reason that cannot happen.

**{Tape: 1; Side: B; Approx. Time Counter: 427 - Tape: 2; Side A; Approx. Time Counter: 10}**

**J.D. Lynch, Butte resident and former Legislative Senator**, said he opposes this bill.

**{Tape: 2; Side: A; Approx. Time Counter: 11 - 14}**

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. GALVIN-HALCRO** asked **REP. MORGAN** if she had her business in Helena, and if she also pays a fee in Helena. **REP. MORGAN** said she did pay the fee in Billings but not in Helena. She asked if this then is an issue with the City of Billings.

**{Tape: 2; Side: A; Approx. Time Counter: 14 - 33}**

**REP. BITNEY** asked **REP. MORGAN** if she could go further into the bonding issue. **REP. MORGAN** said there were two options. The statute indicates the landowner of the property which houses the business is required to place this bond and not the business owner. The bonding company requires \$50 for a \$1,500 bond. This is a fee that requires renewal every year.

**{Tape: 2; Side: A; Approx. Time Counter: 33 - 50}**

**Closing by Sponsor:**

The sponsor closed.

**{Tape: 2; Side: A; Approx. Time Counter: 50 - 80}**

**EXECUTIVE ACTION ON HB 343**

**{Tape: 2; Side: A; Approx. Time Counter: 80 - 500}**

**Motion:** **REP. MENDENHALL** moved **HB 343 DO PASS.**

**Motion:** **REP. LAWSON** moved **HB 343 AMENDMENTS.**

**Discussion:**

**Mr. Campbell** explained the amendments.

**REP. LAWSON** withdrew his amendments.

**Motion:** **REP. BERGREN** moved the **SECOND SET OF AMENDMENTS.**

**Vote:** Motion carried 16-2 with **REPS. HAWK** and **MENDENHALL** voting no.

**Motion/Vote:** **REP. ROME** moved **HB 343 BE TABLED.** A roll call vote was taken. Motion carried 18-0.

**ADJOURNMENT**

Adjournment: 9:45 A.M.

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REP. JOE MCKENNEY, Chairman

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ALBERTA STRACHAN, Secretary

JM/AS

**EXHIBIT** (buh18aad)